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"(2) If an officer or employee is receiving basic salary at less than the minimum rate of the class or subclass to which the position he holds is allocated, his salary shall be increased to the lowest basic salary of that class or subclass.

"(3) If an officer or employee is receiving a basic salary within the range provided for the class or subclass to which the position he holds is allocated, and at one of the rates within that range, no change shall be made in his basic salary; if his basic salary rate is within the range but does not correspond to any one of the rates prescribed for that range by section 415 [section 870 of this title], his salary shall be adjusted by fixing it at the next higher rate above the rate which he is receiving.

"(4) If an officer or employee is receiving basic salary at a rate in ex-

cess of the maximum basic salary rate provided by section 415 [section 870 of this title] for the class or subclass to which the position he holds is allocated in accordance with the provisions of section 1103 [set out as a note under section 936 of this title], he shall not suffer a diminution in salary as a consequence of the classification of the position which he holds so long as he continues to occupy that position, but if he is not receiving salary at one of the rates prescribed in section 415 [section 870 of this title], his salary shall be adjusted by fixing it at the next higher rate above the rate which he is receiving."

**Legislative History.** For legislative history and purpose of Pub.L. 86-723, see 1960 U.S. Code Cong. and Adm. News, p. 3407.

**Cross References**

Foreign Service staff officers and employees, section as applicable to appointments of, see section 936 of this title.

**§ 887. Repealed. Pub.L. 86-723, § 52(1), Sept. 8, 1960, 74 Stat. 847**

**Historical Note**

Section, Act Aug. 13, 1946, c. 957, Title IV, § 442, 60 Stat. 1006, provided for establishment of new group of positions, known as subclasses, for officers and employees.

**Effective Date of Repeal.** Repeal of section by Pub.L. 86-723 effective the first

day of first pay period which begins more than thirty days after Sept. 8, 1960, see section 56(a) of Pub.L. 86-723, set out as a note under section 809 of this title.

**§ 888. Repealed. Pub.L. 86-707, Title V, § 511(a)(1), Sept. 6, 1960, 74 Stat. 800**

**Historical Note**

Section, Acts Aug. 13, 1946, c. 957, Title IV, § 443, 60 Stat. 1006; Apr. 5, 1955, c. 23, § 3, 69 Stat. 24, related to salary differentials for Foreign Service officers, Re-

serve officers, and staff officers, and is now covered by section 5921 et seq. of Title 5, Government Organization and Employees.

**§ 889. Compensation plans and annuity increases for alien employees and family members of Government personnel abroad**

**Establishment**

(a)(1) The Secretary shall, in accordance with such regulations as he may prescribe, establish compensation plans for alien em-

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ployees of the Secretary of the Department abroad serving in the United States based upon previous employment corresponding to that of the alien pursuant to this section. The Secretary shall pay for alien employment practice section 6310 of 7.

(2) The Secretary shall, upon the request of an alien employee who is a former alien employee, make such adjustments in the rate of pay as may be necessary to compensate for rate losses, if the alien employee is receiving a salary that is less than the salary in value in the United States in the country in which the alien employee is employed. The Secretary shall also make adjustments in the retirement benefits payable to the alien employee to compensate for competitive loss of value of civil service retirement payable to alien employees and a Government employee.

**Administrative**

(b) For the purpose of this section, the term "alien employee" includes those alien employees who are authorized to administer the Government of the United States and the applicable laws of the United States.

**Compensation**

(c)(1) The Secretary shall, upon the request of an alien employee who is or has been a member of the United States Armed Forces (or, in the case of an alien employee of the United States, a member of the United States Armed Forces), make such adjustments in the rate of pay as may be necessary to compensate for rate losses, if the alien employee is receiving a salary that is less than the salary in value in the United States in the country in which the alien employee is employed. The Secretary shall also make adjustments in the retirement benefits payable to the alien employee to compensate for competitive loss of value of civil service retirement payable to alien employees and a Government employee.

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employees of the Service and for United States citizens employed by the Department abroad who are family members of Government personnel serving in the same country. Such compensation plans shall be based upon prevailing wages rates and compensation practices for corresponding types of positions in the locality, to the extent consistent with the public interest. Compensation plans established pursuant to this section may include provision for leave of absence with pay for alien employees in accordance with prevailing law and employment practices in the locality of employment, without regard to section 6310 of Title 5.

(2) The Secretary may, under such regulations as he may prescribe, make supplemental payments, out of funds appropriated after July 12, 1976, for salaries and expenses, to any civil service annuitant who is a former alien employee of the Service (or is a survivor of a former alien employee of the Service) in order to offset exchange rate losses, if the annuity being paid such annuitant is based on (A) a salary that was fixed in a foreign currency that has appreciated in value in terms of the United States dollar, and (B) service in a country in which (as determined by the Secretary) the average retirement benefits being received by those who have retired from competitive local organizations are superior to the local currency value of civil service annuities plus any other retirement benefits payable to alien employees who have retired during similar time periods and after comparable careers with the United States Government.

**Administration of similar programs by other Government agencies**

(b) For the purpose of performing functions abroad, other Government agencies and any other establishments of the Government, including those in the legislative and judicial branches, are authorized to administer employment programs for aliens, and for family members of Government personnel serving abroad in accordance with the applicable provisions of this chapter.

**Compensation for alien employees imprisoned by foreign government**

(c)(1) The head of any agency of the United States, including any agency of the legislative or judicial branch of the United States, may compensate any current or former alien employee, including an alien employee who worked under a personal services contract, who is or has been imprisoned by a foreign government if the Secretary of State (or, in the case of an alien employee of the Central Intelligence Agency, the Director of Central Intelligence) determines that such imprisonment is the result of the alien's employment by the United States. Such compensation may not exceed an amount that such agency head determines approximates the salary and other benefits to which such employee or former employee would have been entitled had he or she remained employed during the period of such imprisonment, and may be paid under such terms and conditions as

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the Secretary of State deems appropriate. For purposes of making payments authorized by this subsection, the head of any such agency shall have the same powers with respect to imprisoned alien employees and such former employees as any head of an agency under the provisions of subchapter VII of chapter 55 of Title 5 to the extent that such powers are consistent with this paragraph. Any period of imprisonment of an alien which is compensable under this subsection shall be considered for purposes of any other employee benefit to be a period of employment by the United States Government, except that a period of imprisonment shall not be creditable—

(A) for purposes of subchapter III of chapter 83 of Title 5 unless the individual either—

(i) was subject to section 8334(a) of such title during the period of his or her Government employment last preceding the imprisonment; or

(ii) qualifies for annuity benefits under such subchapter III by reason of other service; or

(B) for purposes of subchapter I of chapter 81 of Title 5 unless the individual was employed by the United States Government at the time of his or her imprisonment.

(2) No compensation or other benefit shall be awarded under paragraph (1) unless a claim therefor is filed within three years after—

(A) August 17, 1977;

(B) the termination of the period of imprisonment giving rise to the claim; or

(C) the date of the claimant's first opportunity to file such a claim, as determined by the appropriate agency head;

whichever is later.

(3) The Secretary of State may prescribe regulations governing payments under this subsection for the guidance of all agencies.

**Regulations authorizing employment abroad and compensation of family members of Government personnel**

(d) The Secretary of State shall prescribe regulations authorizing the employment abroad, and providing for the compensation, of family members of Government personnel.

Aug. 13, 1946, c. 957, Title IV, § 444, 60 Stat. 1006; Sept. 8, 1960, Pub.L. 86-723, § 6, 74 Stat. 831; July 12, 1976, Pub.L. 94-350, Title I, § 112, 90 Stat. 826; Aug. 17, 1977, Pub.L. 95-105, Title IV, § 402(a), (b)(1), 91 Stat. 852; Oct. 7, 1978, Pub.L. 95-426, Title IV, §§ 401(b)(2)-(4), 412(a), 92 Stat. 977, 981.

**Historical Note**

1978 Amendment. Subsec. (a)(1). Pub. Department abroad who are family members of Government personnel serving United States citizens employed by the in the same country", struck out "Provid-

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ed, That" preceding "Such plans", and added provisions of absence with employees.

Subsec. (b). Pub.L. 95 substituted "employment plans", and for family members of Government personnel serving "alien employee program".

Subsec. (c)(1)(B). Pub.L. 95 (a), substituted "chapter 8", correcting a printing error previously been editorially.

Subsec. (d). Pub.L. 95 added subsec. (d).

1977 Amendment. Section 95-105, § 402(a), inserted establishments of the following branches," following "clauses".

Subsec. (c). Pub.L. 95 added subsec. (c).

1976 Amendment. Section 94-350 designated existing par. (1) and added par. (2).

1960 Amendment. Section 94-350 substituted provisions required to establish compensation for employees and employment agencies to employee programs in applicable provisions which required to prepare schedules of positions for employees and which provided for comparative uniform standards of living.

Effective Date of Section 412(c) of Title 5 that: "The amendment to this section (amending this section and providing for note under section 412(c) shall be effective as follows:

Effective Date of Section 402(b)(2) of Title 5 provided that: "The paragraph (1) of this subsection (c) of this section with respect to a future qualified employee compensation order title 5, United States Government employees, that may be subject of such amendment prior to the first

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ed. That" preceding "Such compensation plans", and added provision relating to leaves of absence with pay for alien employees.

Subsec. (b). Pub.L. 95-426, § 401(b)(3), substituted "employment programs for aliens, and for family members of Government personnel serving abroad" for "alien employee programs".

Subsec. (c)(1)(B). Pub.L. 95-426, § 412(a), substituted "chapter 81" for "chapter 8", correcting a printing error which had previously been editorially corrected.

Subsec. (d). Pub.L. 95-426, § 401(b)(4), added subsec. (d).

**1977 Amendment.** Subsec. (b). Pub.L. 95-105, § 402(a), inserted "and any other establishments of the Government, including those in the legislative and judicial branches," following "Government agencies".

Subsec. (c). Pub.L. 95-105, § 402(b)(1), added subsec. (c).

**1976 Amendment.** Subsec. (a). Pub.L. 94-350 designated existing provisions as par. (1) and added par. (2).

**1960 Amendment.** Pub.L. 86-723 substituted provisions requiring the Secretary to establish compensation plans for alien employees and empowering other Government agencies to administer alien employee programs in accordance with the applicable provisions of this chapter for provisions which required the Secretary to prepare schedules of salaries for classes of positions of alien clerks and employees and which required alien employees to receive equal pay in areas of comparatively uniform wage scales and standards of living.

**Effective Date of 1978 Amendment.** Section 412(c) of Pub.L. 95-426 provided that: "The amendments made by this section [amending subsec. (c)(1)(B) of this section and provision set out as a note under section 1004 of this title] shall be effective as of August 17, 1977."

**Effective Date of 1977 Amendment.** Section 402(b)(2) of Pub.L. 95-105 provided that: "The amendment made by paragraph (1) of this subsection [adding subsec. (c) of this section] shall apply with respect to all past, present, and future qualified employees, but no monthly compensation or annuity payment under title 5, United States Code [Title 5, Government Organization and Employees], that may be approved by reason of such amendment shall be effective prior to the first day of the first month

which begins on or after the date of enactment of this Act [Aug. 17, 1977] or October 1, 1977, whichever is later. Payments that may be authorized under such amendment, other than annuity or monthly compensation payments referred to in the preceding sentence, shall be paid from funds appropriated after such date of enactment for salaries and expenses."

**Effective Date of 1960 Amendment.** Amendment by Pub.L. 86-723 effective the first day of first pay period which begins more than thirty days after Sept. 8, 1960, see section 56(n) of Pub.L. 86-723, set out as a note under section 809 of this title.

**Effective Date.** Section effective three months following Aug. 13, 1946, see section 1141 of Act Aug. 13, 1946, set out as a note under section 801 of this title.

**Employment of Family Members Overseas.** Section 401(a) of Pub.L. 95-426 provided that:

"In order to expand employment opportunities for family members of United States Government personnel assigned abroad, the President shall—

"(1) seek to conclude such bilateral and multilateral agreements as will facilitate the employment of such family members in foreign economies; and

"(2) direct that at any United States post abroad where a qualified family member is available to be hired, consideration shall be given, when continuity over a long term is not a significant consideration, to converting a vacant alien position to an American position for staffing by that family member."

**Report to Congress on Employment of Family Members of Government Personnel Overseas.** Section 401(c) of Pub.L. 95-426 provided that: "Not later than January 20, 1979, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report describing fully and completely the actions taken by the Department of State pursuant to this section and section 413 of the Foreign Relations Authorization Act, Fiscal Year 1978 [section 2693 of this title]."

**Legislative History.** For legislative history and purpose of Pub.L. 86-723, see 1960 U.S. Code Cong. and Adm. News, p. 3407. See, also, Pub.L. 94-350, 1976 U.S. Code Cong. and Adm. News, p. 1555; Pub.L. 95-105, 1977 U.S. Code Cong. and Adm. News, p. 1625; Pub.L. 95-426, 1978 U.S. Code Cong. and Adm. News, p. 2424.